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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,159	01/04/2002	Syoichiro Yoshiura	1035-362	1757
23117 7590 05/12/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
MAGUIRE, LINDSAY M				
ART UNIT		PAPER NUMBER		
3692				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/035,159

Applicant(s)

YOSHIURA ET AL.

Examiner

LINDSAY M. MAGUIRE

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14, 17-19, 23-31, 33, 35, 37-40, 43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17-19, 23-31, 33, 35, 37-40, 43 and 44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Final Office action is in response to the application filed on January 4, 2002, the amendments filed on April 17, 2007, the Request for Continued Examination filed on September 20, 2007, amendments filed on January, 14, 2008, the Request for Continued Examination filed on July 15, 2008, the response to the application mailed on August 15, 2008 filed on November 5, 2008, and the amendments filed on March 20, 2009.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15, 17-19, 23-31, 33, 35, 37-40, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. 6,341,271 (Salvo et al. '271), in view of U.S. Pat. No. 6,078,906 (Huberman '906).

**Re Claim 1:** Salvo et al. '271 disclose an information communication apparatus, which is set to be capable of performing communication with outside via a network, comprising: an information generating section for selecting an article suitable for maintenance (Abstract; column 3, line 63 – column 4, line 67; column 9, lines 33-57; i.e. maintenance of the inventory), so as to generate purchase information which indicates

that purchase of the article is required (Abstract; column 3, line 63 – column 4, line 67; column 9, lines 33-57), said information generating section presumes a time when life of the article required for maintenance will end and generates the purchase information (Abstract; Figure 2; column 3, lines 42-62), and a communication section for opening the purchase information to plural dealers (column 6, lines 47-63), and for receiving sales information, which indicate sales conditions of said article, from respective dealers, during an auction period, so as to inform the sales information to a user, wherein, selection of the article to be purchased, generation of purchase information, and transmission of purchase information are automatically performed by said apparatus without instruction by the user (Abstract; column 3, line 42 – column 4, line 67; column 9, lines 33-57).

Salvo et al. '271 disclose the apparatus substantially as claimed, with the exception of requiring a reverse auction, that generating the purchase information at a time calculated by subtracting from the presumed time a purchase time required between transmission of the purchase information by the communication section and reception of a delivery of the article, which purchase time includes an auction period, a period of business discussions between the user and the dealer, and a period required between delivery of the article by the dealer and reception of delivery of the article; and an auction server including a server controlling section set to inform a specific wholesale shop, which has the article corresponding to the purchase information, of an instruction to provide an article to the user of the digital complex machine, in a case

where there is no dealer that has transmitted sales information indicative of a sales condition which satisfies a standard value. However, Salvo et al. '271 does disclose that delivery time is taken into account as one of the parameters in when to order (Figure 2, column 3, lines 42-62; i.e. to maintain a continuous supply). Huberman '906 discloses generating a service description (A), an auction period (E-Z), a period of business discussions (Q-U), and a delivery time (column 18, line 65 - column 19, line 1). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Salvo et al. '271, in view of the teachings of Huberman '906, for the basic reason of insuring that a continuous supply is maintained and that all factors are taken into account. Additionally, Huberman '906 disclose an auction server (104) and a broker process (230), while contacting a specific wholesale shop is not disclosed, a direct notification process is disclosed which could obviously function in the aforementioned configuration for the basic reason of allowing for direct contact between the brokers and supplier (column 13, lines 37-67).

It is noted that although Salvo et al. '271 shows an automatic replenishment of inventory method and system, Salvo et al. '271 is considered to be able to function as an "an information communication apparatus" as called for in the instant claims. While Salvo et al. '271 does not explicitly show the apparatus in these configurations, a reference needs only be capable of being in these configurations in order to "read on" the claim language. In this case, the Salvo et al. '271 discloses that the device could be attached to an automobile to monitor the life of certain parts and to order said parts and

schedule maintenance for when the new part is available and the current part has reached the end of its life (paragraph [0063]).

**Re Claim 2:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said communication section is set to open the purchase information to the plural dealers, and to transmit the purchase information to an auction server which collects the sales information from the respective dealers, and said communication section is set to receive the sales information of the respective dealers, from the auction server (Huberman '906: column 18, line 65 - column 19, line 1).

**Re Claim 3:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including said auction server is set to determine a dealer as a successful bidder in accordance with the sales condition transmitted from the respective dealers, and said auction server is set to inform the communication section of the successful bidder that has been determined (Huberman '906, Figures 3a, 3b).

**Re Claim 4:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said information generating section is set to generate purchase information, which indicates that purchase of an expendable is required (Salvo et al. '271: Abstract; column 3, line 42 – column 4, line 67; column 9, lines 33-57).

**Re Claim 5:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said information generating section is set to generate the purchase information, which indicates that the purchase of the expendable is required when an amount of the expendable left becomes less than a predetermined value (Salvo et al. '271: Abstract; column 3, line 42 – column 4, line 67; column 9, lines 33-57).

**Re Claim 6:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said information generating section is set to generate purchase information, which indicates that purchase of a replacement part is required (Salvo et al. '271: Abstract, claim 1).

**Re Claim 7:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said information generating section is set to generate the purchase information, which indicates that the purchase of the replacement part is required when deterioration of the replacement part of the user device becomes more than a predetermined value (Salvo et al. '271: Abstract, claim 1).

**Re Claim 8:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said information generating section is set to generate purchase information, which indicates that a regular examination is required (Salvo et al. '271: Abstract; column 3, line 42 – column 4, line 67; column 9, lines 33-57).

**Re Claim 9:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said information generating section is set so that the purchase information includes specifying information to specify (Salvo et al. '271: Abstract; column 3, line 42 – column 4, line 67; column 9, lines 33-57).

**Re Claim 10:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said information generating section is set to stop generating the purchase information in accordance with an instruction of the use (Salvo et al. '271: column 7, lines 23-38).

**Re Claim 11:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said information generating section is set so that the purchase information includes information that causes a dealer to be determined as a successful bidder (Huberman '906: column 11, line 49 – column 12, line 7).

**Re Claim 12:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said communication section informs the sales information by displaying the sales information (Salvo et al. '271: Figures 2 & 3).

**Re Claim 13:** Salvo et al. '271 discloses a service providing system comprising an information communication apparatus and an auction server, wherein: said information communication apparatus (abstract), which is set to perform communication



with outside via a network, includes: an information generating section for selecting an article suitable for maintenance (Abstract; column 3, line 63-column 4, line 67; column 9, lines 33-57), so as to generate purchase information which indicates that purchase of the article is required, said information generating section presumes a time when life of the article required for maintenance will end (abstract; Figure 2, column 3, lines 42-62), generating purchase information (Abstract; column 3, line 63-column 4, line 67; column 9, lines 33-57), and a communication section for opening the purchase information to plural dealers (column 6, lines 47-63), and for receiving sales information, which indicate sales conditions of said article, from respective dealers, during an auction period, so as to inform the sales information to a user, and the communication section being set to open the purchase information to the plural dealers, and to transmit the purchase information to the auction server which collects the sales information from the respective dealers, and the communication section further being set to receive the sales information of the respective dealers from the auction server, wherein, selection of the article to be purchased, generation of purchase information, and transmission of purchase information are automatically performed by said apparatus without instruction by the user (Abstract; column 3, line 63-column 4, line 67; column 9, lines 33-57).

Salvo et al. '271 disclose the system substantially as claimed with the exception of requiring a reverse auction and that generating the purchase information at a time calculated by subtracting from the presumed time a purchase time required between transmission of the purchase information by the communication section and reception of

a delivery of the article, which purchase time includes an auction period, a period of business discussions between the user and the dealer, and a period required between delivery of the article by the dealer and reception of delivery of the article; and said auction server includes: a server communication section for performing communication with the information communication apparatus; an opening section for opening the purchase information, transmitted from the information communication apparatus, to the plural dealers; a collecting section for collecting the sales information from the respective dealers; and a server controlling section for transmitting the sales information, that has been collected, via the server communication section to the information communication apparatus; and said server controlling section is set to inform a specific wholesale shop, which has the article corresponding to the purchase information, of an instruction to provide an article to the user of the digital complex machine, in a case where there is no dealer that has transmitted sales information indicative of a sales condition which satisfies a standard value. However, Salvo et al. '271 does disclose that delivery time is taken into account as one of the parameters in when to order (Figure 2, column 3, lines 42-62; i.e. to maintain a continuous supply). Huberman '906 discloses generating a service description (A), an auction period (E-Z), a period of business discussions (Q-U), and a delivery time (column 18, line 65 - column 19, line 1). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Salvo et al. '271, in view of the teachings of Huberman '906, for the basic reason of insuring that a continuous supply is maintained and that all factors are taken into account. Additionally, Huberman '906

disclose a server (104) and a broker process (230), while contacting a specific wholesale shop is not disclosed, a direct notification process is disclosed which could obviously function in the aforementioned configuration for the basic reason of allowing for direct contact between the brokers and supplier (column 13, lines 37-67).

It is noted that although Salvo et al. '271 shows an automatic replenishment of inventory method and system, Salvo et al. '271 is considered to be able to function as an "an information communication apparatus" as called for in the instant claims. While Salvo et al. '271 does not explicitly show the apparatus in these configurations, a reference needs only be capable of being in these configurations in order to "read on" the claim language. In this case, the Salvo et al. '271 discloses that the device could be attached to an automobile to monitor the life of certain parts and to order said parts and schedule maintenance for when the new part is available and the current part has reached the end of its life (paragraph [0063]).

**Re Claim 14:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said server controlling section of said auction server is set to determine a dealer as a successful bidder in accordance with the sales information transmitted from the respective dealers, and said server controlling section is set to inform the successful bidder to the communication section of the information communication apparatus (Huberman '906: column 11, line 49 – column 12 line 7).

**Re Claim 15:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra, including that said server controlling section is set to avoid determining a dealer, who transmits sales information indicative of a sales condition which does not satisfy a predetermined standard value, as the successful bidder (Huberman '906: column 11, line 49 –column 12, line 47).

**Re Claims 17-19:** Further system claims would have been obvious from the previously rejected apparatus claims 1-12, and are therefore rejected using the same art and rationale.

**Re Claims 23-30:** Further method claims would have been obvious from the previously rejected apparatus claims 1-12, and are therefore rejected using the same art and rationale.

**Re Claim 31:** The claim is substantially the same as claim 1, with the added step that a computer executes the processes. For the most part then, the claims are rejected under the aforementioned art and rationale. Salvo et al. '271 further discloses this step (Abstract).

**Re Claim 33:** Further program claims would have been obvious from the previously rejected claims 1-12, and are therefore rejected using the same art and rationale.

**Re Claim 37:** Further apparatus claims would have been obvious from the apparatus claims 1-12 previously rejected, and are therefore rejected using the same art and rationale.

**Re Claims 35 and 38:** Further computer readable medium claims would have been obvious from the previously rejected apparatus claims 1-12 and are therefore rejected using the same art and rationale.

**Re Claims 39 & 40:** These claims are substantial duplicates of claims 23 & 24 respectively and are therefore rejected using the same art and rationale.

**Re Claim 43:** This claim is substantially similar to claim 1, but broader in scope and is therefore rejected using the same art and rationale.

**Re Claim 44:** Salvo et al. '271 in view of Huberman '906 disclose the apparatus in supra including that said information generating section regularly measures a decrease of life of the maintenance article so as to presume, in accordance with a measurement result a time of life when the article required for maintenance will end (Abstract; Figure 2; column 3, lines 42-62; column 4, lines 59-67).

### ***Response to Arguments***

Applicant's arguments filed March 20, 2009 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that Salvo et al. '270 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Salvo et al. '270 seeks to solve the similar problem of keeping inventory in stock which is analogous to maintaining a items for maintenance since both require the maintaining and ordering of new elements required by the system.

### ***Conclusion***

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the

specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts of disclosed by the examiner.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. MAGUIRE whose telephone number is (571)272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-670202. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lindsay M. Maguire  
5/8/09  
/Lindsay M Maguire/  
Examiner, Art Unit 3692

/Kambiz Abdi/  
Supervisory Patent Examiner,  
Art Unit 3692